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INGUAGGIATO, MARK

WEBSTER CENTRAL SCHOOL DISTRICT
WEBSTER THOMAS HIGH SCHOOL
KLEM ROAD NORTH ELEMENTARY SCHOOL
SPRY MIDDLE SCHOOL
WAGER, RALPH

Total Fees Paid: \$0.00

Employee:

State of New York

MONROE COUNTY CLERK'S OFFICE
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SECTION 319 OF THE REAL PROPERTY LAW OF THE
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ADAM J BELLO

MONROE COUNTY CLERK



STATE OF NEW YORK
SUPREME COURT : COUNTY OF MONROE

MARK INGUAGGIATO
709 Locarno Drive
Venice, Florida 34285,

Plaintiff,

v.

WEBSTER CENTRAL SCHOOL DISTRICT
119 South Avenue
Webster, New York 14580,

WEBSTER THOMAS HIGH SCHOOL a/k/a
R.L. THOMAS HIGH SCHOOL
800 Five Mile Line Road
Webster, New York 14580,

KLEM ROAD NORTH ELEMENTARY SCHOOL
1015 Klem Road
Webster, New York 14580,

SPRY MIDDLE SCHOOL
119 South Avenue
Webster, New York 14580, and

RALPH WAGER
545 Amity Park Road
Spruce Pine, North Carolina 28777,

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your Answer or, if the Complaint is not served with a Summons, to serve a Notice of Appearance, on Plaintiff's attorney within **twenty** (20) days after the service of this Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service

HOGANWILLIG

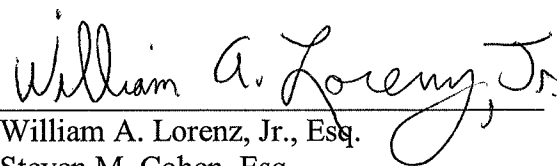
Attorneys at Law

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Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought in Monroe County based on the primary locations of the incidents alleged herein and places of business of Defendants WEBSTER CENTRAL SCHOOL DISTRICT, WEBSTER THOMAS HIGH SCHOOL a/k/a R.L. THOMAS HIGH SCHOOL, KLEM ROAD NORTH ELEMENTARY SCHOOL, and SPRY MIDDLE SCHOOL.

DATED: July 19, 2019
Amherst, New York



William A. Lorenz, Jr., Esq.

Steven M. Cohen, Esq.

Scott Michael Duquin, Esq.

HoganWillig, PLLC

Attorneys for Plaintiff

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STATE OF NEW YORK
SUPREME COURT : COUNTY OF MONROE

MARK INGUAGGIATO

Plaintiff,

v.

WEBSTER CENTRAL SCHOOL DISTRICT,
WEBSTER THOMAS HIGH SCHOOL a/k/a
R.L. THOMAS HIGH SCHOOL,
KLEM ROAD NORTH ELEMENTARY SCHOOL,
SPRY MIDDLE SCHOOL, and
RALPH WAGER,

Defendants.

**VERIFIED
COMPLAINT**

Index No.:

Plaintiff MARK INGUAGGIATO, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Complaint against Defendants WEBSTER CENTRAL SCHOOL DISTRICT ("WCSD"), WEBSTER THOMAS HIGH SCHOOL a/k/a R.L. THOMAS HIGH SCHOOL ("WEBSTER THOMAS"), KLEM ROAD NORTH ELEMENTARY SCHOOL ("KLEM ROAD"), SPRY MIDDLE SCHOOL ("SPRY"), and RALPH WAGER ("WAGER"), herein alleges as follows:

1. At all relevant times hereinafter mentioned, Plaintiff is currently a resident of the County of Sarasota, State of Florida.
2. During the period of time it is alleged the incidents herein occurred, Plaintiff was a resident of the County of Monroe, State of New York.
3. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant WCSD was and is a quasi-municipal corporation organized and existing pursuant to

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the laws of the State of New York, with a principal place of business located at 119 South Avenue, Webster, County of Monroe, State of New York.

4. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant WEBSTER THOMAS was and is a public high school, located at 800 Five Mile Line Road, Webster, County of Monroe, and State of New York.

5. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant KLEM ROAD was and is a public elementary school located at 1015 Klem Road, Webster, County of Monroe, and State of New York.

6. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant SPRY was and is a public middle/junior high school located at 119 South Avenue, Webster, County of Monroe, and State of New York.

7. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant WCSD operated and still operates schools including Defendants WEBSTER THOMAS, KLEM ROAD, and SPRY (collectively referred to herein as the "WEBSTER Defendants").

8. Upon information and belief, and at all relevant times hereinafter mentioned Defendant WAGER is a resident of the County of Mitchell, State of North Carolina who, during the time period of the incidents alleged herein, resided in the County of Monroe, State of New York.

FACTS COMMON TO ALL CLAIMS

9. Upon information and belief, during the times relevant to the allegations set forth herein, Defendant WAGER was employed by the WEBSTER Defendants as a teacher and coach from approximately 1967 to 1983.

10. Upon information and belief, during the times relevant to the allegations set forth herein, Defendant WAGER was under the direct supervision, employ, and/or control of the WEBSTER Defendants.

11. Through his positions at, within, or for the WEBSTER Defendants, Defendant WAGER was put in direct contact with Plaintiff, beginning in the late 1960s.

12. Plaintiff was a student at Defendants KLEM ROAD and SPRY with Defendant WAGER as a coach in or about the late 1960s.

13. Starting in or around 1967 and lasting into the early 1970s, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Defendant WAGER, and with the acquiescence, approval, participation, and implied permission of the WEBSTER Defendants.

14. Upon information and belief, Defendant WAGER's sexual harassment, sexual abuse, and violence toward Plaintiff began when Plaintiff was approximately eight (8) years old.

15. Some of the incidents experienced by Plaintiff, then an infant, included, but are not limited to, the following:

- a. Starting in or around 1967, Defendant WAGER began grooming then-infant Plaintiff to earn Plaintiff's trust as Plaintiff's coach.
- b. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant WAGER would fondle then-infant Plaintiff's body after completing exercises including Plaintiff's genital area.
- c. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-

sanctioned trips, Defendant WAGER forced then-infant plaintiff to rub Defendant's genital area.

- d. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant Wager forcibly attempted to anally penetrate Plaintiff.
- e. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant Wager performed oral sex on then-infant Plaintiff.
- f. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant WAGER forced then-infant Plaintiff to perform oral sex on him.
- g. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant WAGER forced then-infant Plaintiff to sit on Defendant WAGER's face and masturbate.
- h. On multiple occasions while on the premises of the WEBSTER Defendants, including but not limited to the showers and towel room, and while on school-sanctioned trips, Defendant Wager forced then-infant Plaintiff to anally penetrate him.

- i. On multiple occasions, Defendant Wager attempted to, and did successfully, sexually abuse then-infant Plaintiff was described above at Defendant WAGER's home in the County of Monroe, State of New York.

16. Upon information and belief, Defendant WAGER is currently serving a life sentence in Alexander Correctional Institution, North Carolina, after pleading guilty in 2015 to felony offenses relating to the sexual harassment, sexual abuse, and/or acts of violence toward minor children committed between 1987 and 1989 while employed at Catawba College in Salisbury, North Carolina.

17. Venue is proper in Monroe County based on the primary location of the incidents alleged herein and places of business of the WEBSTER Defendants.

18. This action is brought pursuant to CPLR § 214-G, as added by the New York Child Victims Act, which has revived claims of child sexual abuse for a period of one year beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely commenced.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENCE

19. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "18" as though more fully set forth herein.

20. Defendant WAGER, as an agent, servant, and/or employee of the WEBSTER Defendants, was an educator and coach who had physical custody of Plaintiff before, during, and after the school day, as well as for sanctioned activities such as swim meets, and owed Plaintiff a duty of care.

21. Defendants were *in loco parentis* and owed Plaintiff a duty of care.

22. Defendants breached their duty of care owed to Plaintiff when they allowed Plaintiff to be in contact with Defendant WAGER.

23. Defendants knew or should have known of the sexual abuse, sexual harassment and violence occurring at the WEBSTER Defendants and breached their duty owed to Plaintiff when they failed to report the sexual abuse, sexual harassment, and violence occurring at the WEBSTER Defendants and failed to remove Defendant WAGER.

24. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

25. As a result of Defendants' breach, Plaintiff has incurred and will incur medical costs to treat their past, present, and future psychological suffering as a result of being a victim of sexual abuse, sexual harassment, and violence at the WEBSTER Defendants.

26. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
FAILURE TO REPORT

27. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "26" as though more fully set forth herein.

28. The WEBSTER Defendants, through their agents, servants, and employees, were Mandated Reporters under New York Social Services Law.

29. The WEBSTER Defendants, through their agents, servants, and employees, had reasonable cause to suspect that Plaintiff was being abused and/or maltreated by Defendant WAGER from the late 1960s into the early 1970s.

30. The WEBSTER Defendants, through their agents, servants, and employees, knowingly and willfully failed to report the suspected child abuse and maltreatment to anyone, including the police or Child Protective Services.

31. Defendants did not provide their employees with written information on reporting requirements.

32. Defendants failed to follow the policies of required reporting including, but not limited to, New York Consolidated Laws, Social Services Law - SOS § 413.

33. Defendants are liable for the failure to report pursuant to New York Consolidated Laws, Social Services Law - SOS § 420.

34. The knowing and willful failure of Defendants, through the inaction of their agents, servants, and employees, to report the child abuse and maltreatment of Plaintiff was a proximate cause of Plaintiff's damages.

35. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

36. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "35" as though more fully set forth herein.

37. During the time period of approximately 1967 to the early 1970s, the WEBSTER Defendants allowed Defendant WAGER unrestricted access to Plaintiff and willfully and/or intentionally ignored complaints against Defendant WAGER of sexual abuse, sexual harassment, and violence.

38. During the time period referenced above, the WEBSTER Defendants willfully and/or intentionally ignored Plaintiff's safety by requiring Plaintiff to be under the supervision of

Defendant WAGER by himself before, during, and after school, including on school-sanctioned trips.

39. The WEBSTER Defendants were deliberately indifferent to the risk of sexual harassment and violence posed to Plaintiff by being alone with Defendant WAGER.

40. Defendants willfully and/or intentionally created a hostile and unsafe school environment that no child would be able to tolerate.

41. Defendants, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation, and extreme emotional distress so he would stay silent, and not report the abuse.

42. Defendants behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.

43. Defendants knew with substantial certainty or should have known that their behavior would cause Plaintiff to be a victim of sexual abuse, sexual harassment, and violence.

44. Defendants knew with substantial certainty or should have known that their behavior would cause severe emotional distress to Plaintiff.

45. The foregoing acts of Defendants caused Plaintiff physical, mental and emotional distress.

46. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

47. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "46" as though more fully set forth herein.

48. The WEBSTER Defendants were negligent for failing to address prior complaints against Defendant WAGER of sexual harassment, sexual abuse, and violence, and negligently ignored complaints and concerns from both Plaintiff and other students and faculty.

49. The WEBSTER Defendants were negligent when they allowed Plaintiff to continue to be exposed to Defendant WAGER after being provided with allegations of sexual harassment, sexual abuse, and violence committed by Defendant WAGER.

50. The WEBSTER Defendants knew or should have known this inaction would subject Plaintiff to further sexual harassment, sexual abuse, and violence, and knew or should have known this would unreasonably endanger Plaintiff's safety, cause them to fear for their safety, and cause them severe emotional distress.

51. The WEBSTER Defendants owed a duty to Plaintiff to protect them from sexual harassment, sexual abuse, and violence from Defendant WAGER, including but not limited to when at the premises of the WEBSTER Defendants.

52. The WEBSTER Defendants breached the duty owed to Plaintiff to protect them from sexual abuse, sexual harassment, and violence from Defendant WAGER, including but not limited to when at the premises of the WEBSTER Defendants.

53. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

54. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENT
HIRING**

55. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "54" as though more fully set forth herein.

56. The WEBSTER Defendants owed Plaintiff a duty of care to supervise and protect Plaintiff.

57. The WEBSTER Defendants were obligated to Plaintiff to hire teachers, coaches, and other personnel to ensure that the school environment was a safe school environment for all children including Plaintiff.

58. The WEBSTER Defendants knew or should have known at the time of Defendant WAGER's hiring of his propensity for the conduct which caused the injury.

59. Plaintiff was the victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant WAGER.

60. The WEBSTER DEFENDANTS breached their duty of care to Plaintiff when they negligently hired Defendant WAGER.

61. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

62. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT SUPERVISION AND RETENTION

63. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "62" as though more fully set forth herein.

64. The WEBSTER Defendants owed Plaintiff a duty of care to supervise and protect Plaintiff.

65. The WEBSTER Defendants were obligated to Plaintiff to supervise the teachers, coaches, and other personnel to ensure that the school environment was a reasonably safe school environment for all children.

66. Plaintiff was a victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant WAGER.

67. The WEBSTER Defendants had, or should have had knowledge of the sexual abuse, sexual harassment, and violence by or at the direction of Defendant WAGER and negligently ignored the sexual abuse, sexual harassment, and violence by or at the direction of Defendant WAGER.

68. The WEBSTER Defendants did not terminate the employment of Defendant WAGER despite the sexual abuse, sexual harassment, and violence committed by Defendant WAGER.

69. The WEBSTER Defendants breached their duty of care to Plaintiff when they negligently supervised and retained Defendant WAGER.

70. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

71. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
VIOLATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

72. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "71" as though more fully set forth herein.

73. Title IX of the Education Amendment of 1972 forbids a "funding recipient" from discriminating on the basis of sex in educational programs and activities.

74. Upon information and belief, the WEBSTER Defendants are "funding recipients" under Title IX.

75. Defendant WAGER inappropriately touched Plaintiff and exposed Plaintiff to provocative acts, in violation of Title IX.

76. Defendant WAGER's verbal and physical conduct of a sexual nature was severe or pervasive enough to alter the conditions of Plaintiff's educational environment and created an abusive educational environment.

77. The WEBSTER Defendants had the authority and duty to institute corrective measures.

78. The WEBSTER Defendants acted with deliberate indifference in failing to respond to the sexual harassment and sexual abuse being perpetrated by Defendant WAGER.

79. The deliberate indifference of the WEBSTER Defendants, and the sexual harassment and sexual abuse committed by Defendant WAGER, effectively barred Plaintiff access to various educational opportunities and benefits at the WEBSTER Defendants and subjected Plaintiff to discrimination on the basis of sex in violation of Title IX.

80. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

81. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

82. Plaintiff also seeks attorneys' fees under Title IX.

AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS:
PUNITIVE DAMAGES

83. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "82" as though more fully set forth herein.

84. The WEBSTER Defendants' knowledge of the violence, sexual harassment, and/or misconduct against Plaintiff by or at the direction of Defendant WAGER is tantamount to

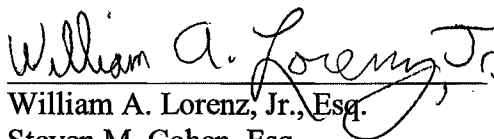
a wanton and conscious disregard for the safety of Plaintiff and others, and warrants the imposition of punitive damages.

85. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendants herein, and by such other acts that were morally reprehensible, Defendants' conduct evidenced a callous disregard for the safety of Plaintiff, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and as a result thereof, Plaintiff demands punitive damages.

86. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount which exceeds the jurisdictional limits of all other courts which might otherwise have jurisdiction, and for such other and further relief to Plaintiff as this Court deems just and proper.

DATED: July 19, 2019
Amherst, New York


William A. Lorenz, Jr., Esq.
Steven M. Cohen, Esq.
Scott Michael Duquin, Esq.
HoganWillig, PLLC
Attorneys for Plaintiff
2410 North Forest Road, Suite 301
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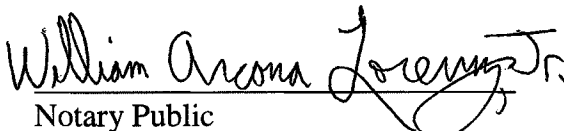
VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
)

MARK INGUAGGIATO, being duly sworn, deposes and says that: I am the Plaintiff herein; I have read the annexed Complaint and know the contents thereof, and the contents are true to my knowledge, except those matters alleged upon information and belief, and as to those matters, I believe them to be true:


MARK INGUAGGIATO

Sworn to before me this 19th day of
July, 2019


Notary Public

William Arcona Lorenz Jr
Notary Public, State of New York
Qualified in Erie County
Lic. # 02LO6285770
Commission Expires July 18, 2021